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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAMUEL DIGIACOMO,

Plaintiff,

v.

EX'PRESSION CENTER FOR NEW
MEDIA, INC., d/b/a EX'PRESSION
COLLEGE FOR DIGITAL ARTS, and
Does 1 through 100,

Defendant.

CASE NO. C-08-01768 MHP

[PROPOSED] ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL ARBITRATION AND TO
DISMISS, OR ALTERNATIVELY STAY, CASE

Date: September 8, 2008
Time: 2:00 P.M.
Location: Courtroom 15, 18th Floor
450 Golden Gate Ave.
San Francisco, CA 94102
Judge: Hon. Marilyn Hall Patel

On September 8, 2008, at the above-indicated time and place, Defendant Ex'pression Center for New Media d/b/a Ex'pression College for Digital Arts' Motion to Compel Arbitration and to Dismiss, or Alternatively Stay, Case ("Motion") came on for hearing before this Court. The movant was represented by Eric J. Sinrod of Duane Morris LLP. Appearing for plaintiff Samuel DiGiacomo were Thomas H. Clarke, Jr. and Andrew M. Wolfe of Ropers, Majeski, Kohn & Bentley.

Having considered the record before this Court, including the pleadings, the parties' moving, opposition and reply papers, the evidence submitted and the oral arguments of counsel,

1 and good cause appearing therefore,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

3 The Motion is **DENIED**. The causes of action alleged in plaintiff's complaint are not
4 with in the scope of the arbitration provision set forth in paragraph 6.1 of the Enrollment
5 Agreement between the parties. Moreover, the arbitration provision at issue is unenforceable due
6 to procedural and substantive unconscionability.

7 **IT IS SO ORDERED.**

8 Dated:

9 HON. MARILYN HALL PATEL
10 U.S. District Judge
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